

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

JENNIFER PIGGOTT and
SLADE PIGGOTT,

Plaintiffs,

V.

GRAY CONSTRUCTION, INC.,

Defendant.

HWASHIN AMERICA CORP.,

Intervener Plaintiff,

V.

JAMES N. GRAY COMPANY, a/k/a
GRAY CONSTRUCTION, INC.,
GNF ARCHITECTS AND
ENGINEERS, PSC, HARDY
MECHANICAL CO., INC., FREELAND
HARRIS CONSULTING ENGINEERS OF
GEORGIA, INC., FREELAND HARRIS
CONSULTING ENGINEERS OF
KENTUCKY, INC., ALL-SOUTH
SUBCONTRACTORS, INC., MID
SOUTH ROOF SYSTEMS, INC.,
COOPER'S STEEL FABRICATORS,
INC., LATTA PLUMBING &
CONSTRUCTION CO., INC., and
FIRESTONE BUILDING PRODUCTS
COMPANY, LLC

Defendants.

**HWASHIN AMERICA CORPORATION'S
MOTION FOR ORAL ARGUMENT**

Comes now Intervener Plaintiff/Third-Party Defendant Hwashin America Corporation ("Hwashin"), pursuant to Fed. R. Civ. P. 12(d) and 78, and hereby moves this Court for an order setting oral argument on Hwashin's pending Motion for Leave to File Amended Complaint in Intervention (Doc. 55), Hwashin's Motion to Dismiss All-South Subcontractors, Inc.'s Cross Claims (Doc. 82) and Hwashin's Motion to Dismiss Gray Construction, Inc.'s Third Party Complaint (Doc. 83). As grounds for this motion, Hwashin states as follows:

1. Third-Party Defendant All-South Subcontractors, Inc. ("All-South") must file a response to Hwashin's Motion to Dismiss its cross claims no later than August 9, 2007. (Doc. 87) Hwashin thereafter has until August 16, 2007 to file a reply brief. (*Id.*) Gray Construction, Inc. ("Gray") is currently required to file a response to Hwashin's Motion To Dismiss Gray's Third-Party Complaint by August 16, 2007. (Doc. 98) Hwashin may thereafter file a reply brief by August 23, 2007. (Doc. 98)

2. With respect to Hwashin's Motion For Leave to File Amended Complaint in Intervention, Gray has filed its Opposition to that motion (Doc. 77), Hwashin has filed its reply to that opposition (Doc. 89) and Gray has now filed a Sur-Reply to Hwashin's reply. (Doc. 96)

3. The procedural and substantive issues raised in Hwashin's motions, and in Gray's opposition thereto, are complex. There is also considerable overlap of legal and factual issues between the Hwashin motions. Given this, Hwashin believes that the Court will be significantly aided by oral argument on these motions.

4. Further, Hwashin would like the opportunity to respond to the arguments and positions presented in Gray's sur-reply (Doc. 96), some of which Gray has raised for the first time in its sur-reply.¹ However, rather than submit an additional brief responding to Gray's sure-reply, Hwashin respectfully suggests that oral argument would be the most effective and efficient way to address all of these issues once and for all.

WHEREFORE, based upon the foregoing, Hwashin respectfully moves this Court for an order setting all of its pending motions for oral argument.

Respectfully submitted,

/s/ W. Christopher Waller, Jr.
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 Hwashin America Corp.

¹ By way of example only, Gray, for the first time, argues in its sur-reply that the related case styled *Gray Construction, Inc. v. Hwashin America Corp.*, Case No. 07-cv-584, does not arise out of the same September 24, 2003 contract that is at issue in this action. (Doc. 96, p. 14) Even a cursory review of Gray's pleadings in these two cases demonstrates that Gray itself has alleged that these cases do arise out of the very same contract. (Doc. 26, ¶ 15); Case No. 07-cv-584 (Doc. 1, ¶ 5)

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CERTIFICATE OF SERVICE

I hereby certify that on August 9, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system that will send notification of such filing to the following:

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